

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 17-87 are pending in the present application; Claims 76-87 having been added by way of the present amendment.

In the outstanding Office Action, Claims 17-74 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

The claims appear to have been rejected because of the allegations that “the final result of the executed instructions is not claimed” and without this final result, the invention does “not produce a useful, concrete and tangible result.” The allegation that the invention does not have a final result is not correct.

Taking Claim 17 as an example, the claim recites a lens, an electronic image pick-up, and a processor. These elements are concrete and allow a digital image to be captured. So, the digital image capturing system is concrete, the lens is concrete, and all of the other elements of the claim are concrete. Of course the claimed device is useful as a digital image capturing device having a lens, an electronic image pick-up, and a processor can capture images which is useful. The digital image capturing system is of course tangible.

If the logic of the Office Action were correct, if somebody invented a novel pencil, then the claim to the pencil would similarly be non-statutory as an apparatus claim to a pencil would not recite a method step of using the pencil. The pencil could be sitting on a desk but this does not mean that an apparatus claim to a pencil is non-statutory because it is not being used. Similar logic applies to the claimed digital image capturing system.

Above and beyond basic elements of a digital image capturing system, it is recited that the processor is configured to execute instructions in the received control program.

Reading claim 17, it is clear that the second input/output interface must be configured to receive a control program and the processor must be configured to execute a control program. If a device does not have these features, it would not meet the claim limitations. A device which has the limitations recited in Claim 17 would infringe Claim 17.

The claimed invention definitely recites hardware which itself is useful, concrete, and tangible. This hardware is for use to achieve a statutory result (receiving a control program, storing the control program, and executing instructions of the received control program).<sup>1</sup> Hardware meeting these limitations is definitely statutory under U.S. law, and therefore, the rejection under 35 U.S.C. § 101 should be withdrawn.

It is to be noted that the claims are not directed towards an abstract idea, a law of nature, or a natural phenomena. The invention most definitely has a practical application that produces a useful, concrete, and tangible result.

Accordingly, Claim 17, and each of the other claims pending in the present application are statutory, and therefore, the rejection under 35 U.S.C. § 101 should be withdrawn.

The added claims have been set forth to recite the invention in varying scope and are patentable over the prior art. Page 6, lines 15-19 provide support for images captured through the lens can be stored in a memory card and played on an LCD panel. Page 7, lines 11-13 of the original specification explain that the control program for the I/O card can come from a memory card. As an alternative, the control program can enter the camera through the communication line 24. Page 7, lines 13-16, explain that the communication line 24 can alternatively be connected to an appropriate terminal in place of the card 15. Such a terminal or terminal(s) can be considered an input/output interface and can be any type of terminal or interface which performs communication, including, but not limited to, serial, parallel, and

---

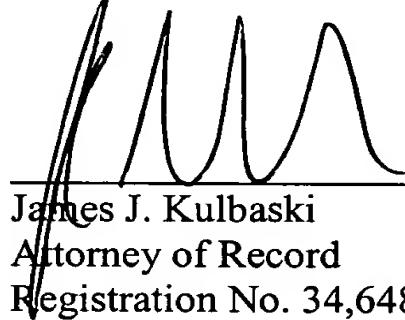
<sup>1</sup> These are the limitations of Claim 17 and other claims may have different limitations. However, all claims are clearly statutory.

USB terminals or interfaces, for example. Based on the above explanation and other parts of the originally filed application, there is support for each of the claims.

Consequently, in light of the above discussion and in view of the present amendment, the present application is in condition for formal allowance and an early and favorable action to that effect is requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



James J. Kulbaski  
Attorney of Record  
Registration No. 34,648

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

GJM:JJK\la